

HOUSE BILL NO. 565

INTRODUCED BY J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EACH AGENCY CONTRACTING FOR THE PROCUREMENT OF SERVICES TO REQUIRE THAT THE CONTRACTOR AND ANY APPROVED TRANSFEREE, ASSIGNEE, AND SUBCONTRACTOR PROVIDE THE AGENCY WITH THE NUMBER OF INDIVIDUALS EMPLOYED TO PERFORM THE CONTRACT, THE HOURS WORKED TO PERFORM THE CONTRACT, AND THE WAGES AND BENEFITS PAID TO THE INDIVIDUALS EMPLOYED TO PERFORM THE CONTRACT; AMENDING SECTIONS 18-4-126, 18-4-141, AND 18-8-211, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-4-126, MCA, is amended to read:

"18-4-126. Public access to procurement information -- records -- retention. (1) Procurement information is a public writing and must be available to the public as provided in 2-6-102 and 18-4-304.

(2) All procurement records must be retained, managed, and disposed of in accordance with the state records management program, Title 2, chapter 6.

(3) Written determinations required by this chapter must be retained in the appropriate official contract file of the department or the purchasing agency administering the procurement in accordance with the state records management program.

(4) Each agency contracting for the procurement of services shall require as part of the contract that the contractor provide the agency with the number of individuals employed to perform the contract, the hours worked to perform the contract, and the wages and benefits paid to the individuals employed to perform the contract."

Section 2. Section 18-4-141, MCA, is amended to read:

"18-4-141. Contract transfers and collusion prohibited -- violations and penalty. (1) (a) A contract or order or any interest in a contract or order may not be transferred, assigned, or subcontracted by the party to whom the contract or order is given to any other party without the express written approval of the state, and

the state may declare void any unapproved transfer, assignment, or subcontract.

(b) The written approval of the transfer, assignment, or subcontracting must include a provision requiring each transferee, assignee, or subcontractor to comply with the requirements of 18-4-126(4).

(2) Collusion or secret agreements between vendors for the purpose of securing any advantage to the vendors as against the state in the awarding of contracts are prohibited. The state may declare the contract void if the department finds sufficient evidence after a contract has been let that the contract was obtained by a vendor or vendors by reason of collusive or secret agreement among the vendors to the disadvantage of the state.

(3) All rights of action for a breach of a contract by the contracting parties are reserved to the state.

(4) A person who violates the provisions of 2-2-201 or this section, or both, is guilty of a misdemeanor and shall be fined an amount of not less than \$500 or more than \$5,000, and the state of Montana may at its option declare any contract in violation of the provisions of 2-2-201 or this section, or both, void ab initio."

Section 3. Section 18-8-211, MCA, is amended to read:

"18-8-211. Coordination with other statutes. (1) This part need not be complied with by an agency when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved. This part does not relieve the contracting authority from complying with applicable law limiting emergency expenditures.

(2) The limitation on the preparation of working drawings contained in 18-2-111 applies to this part.

(3) The procedure for appointment of architects and consulting engineers pursuant to 18-2-112 applies to this part, except that the agency shall select its proposed list of three architects or consulting engineers in accordance with this part prior to submission to the department of administration.

(4) The provisions of 18-4-126 and 18-4-141 apply to this part."

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2005.

NEW SECTION. **Section 5. Applicability.** [This act] applies to contracts entered into or renewed on or after [the effective date of this act].

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